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APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,499	03/26/2004	Masayuki Tsuda	9683/179	8154
757	7590	09/25/2006	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			SAMS, MATTHEW C	
			ART UNIT	PAPER NUMBER
			2617	
DATE MAILED: 09/25/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/810,499	TSUDA ET AL.	
	Examiner	Art Unit	
	Matthew C. Sams	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

### ***Response to Amendment***

2. This office action is in response to the amendment filed on 6/24/2006.
3. Claims 1-4 have been canceled. Claims 5-28 have been added.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 8, the claim recites a "program product" for causing a "computer device to execute the process", however the body of the claim is limited to the program and fails to breath life or meaning into a "readable medium" and "processor" limitation in the preamble, thus effectively claiming a program per se, failing to provide any structural and functional interrelationships between the program and other claimed elements of the computer which would permit the functionality of the program to be realized and thus are non-statutory. The examiner suggests instead claiming, "A computer readable medium encoded with a computer program, when executed by a

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processor, causes:..." and thereby claiming a statutory computer element containing the program.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 5 and 8-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kokubo (US 2003/0119562).

Regarding claim 5, Kokubo teaches a terminal device (Fig. 1A [100]) comprising:

processing means for detecting one of a predetermined set of events that cause operation of an application program to suspend, the processing means operable to generate event data representative of a cause of the suspension of the application program; (Fig. 2 [115], Pages 3-4 [0047-0048] and Page 7 [0116])

the processing means further operable to suspend operation of an application program when an event is detected; (Pages 4-5 [0064-0067] and Page 7 [0116]) and

storage means for storing the event data generated by the processing means; (Page 4 [0048-0049])

wherein the processing means is further operable to resume operation of the application program suspended by the processing means; (Pages 4-5 [0064-0067]) and

wherein the processing means is further operable to deliver the event data stored by the storage means to the resumed application program. (Page 2 [0016] and Page 8 [0124])

Regarding claim 8, the limitations of claim 8 are rejected as being the same reasons set forth above in claim 5.

Regarding claim 9, Kokubo teaches a mobile device (Fig. 1A [100]) comprising:  
a memory; (Fig. 2 [116 & 117])

instructions stored in the memory to detect receipt of a first predetermined event; (Fig. 2 [115], Pages 3-4 [0047-0048] and Page 7 [0116])

instructions stored in the memory to suspend operation of an application that is currently being executed; (Fig. 2 [115], Pages 3-4 [0047-0048] and Page 7 [0116])

instructions stored in the memory to store event data related to suspension of the application; (Page 4 [0048-0049])

instructions stored in the memory to initiate resumption of execution of the application in response to a second predetermined event; (Pages 1-2 [0013-0016])

instructions stored in the memory to extract the stored event data; (Page 4 [0048]) and

instructions stored in the memory to resume execution of the application, in accordance with the extracted event data, to be indicative of the first predetermined event. (Fig. 9)

Regarding claim 10, Kokubo teaches instructions stored in the memory to resume execution of the application comprises instructions stored in the memory to provide notification of the first predetermined event. (Fig. 9)

Regarding claim 11, the limitations of claim 11 are rejected as being the same reason set forth above in claim 10.

Regarding claim 12, Kokubo teaches instructions stored in memory to generate a query to a user that is related to the first predetermined event. (Pages 1-2 [0013-0016])

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6, 7 and 13-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubo in view of Kurokawa et al. (US-7,016,706 hereinafter, Kurokawa).

Regarding claim 6, Kokubo teaches the storage means is operable to store sets of event data each representing an event between the time period from the time of suspension of operation of the application program by the processing means (Page 1 [0012] through Page 2 [0016]), but differs from the claimed invention by not explicitly reciting the time that operation of the application program is resumed by the processing means.

In an analogous art, Kurokawa teaches a mobile radio terminal that includes a storage means is operable to store sets of event data each representing an event between the time period from the time of suspension of operation of the application program by the processing means and saves the time that operation of the application program is resumed by the processing means. (Col. 13 lines 10-24 and Fig. 6) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the terminal device of Kokubo after modifying it to incorporate the event history of Kurokawa. One of ordinary skill in the art would have been motivated to do this since it makes for convenient multi-tasking on a mobile terminal device. (Col. 1 line 33 through Col. 2 line 19)

Regarding claim 7, Kokubo in view of Kurokawa teaches the processing means is operable to suspend operation of the application program when the communication means receives a message in which a user of the terminal device is designated. (Kurokawa Col. 1 lines 37-49)

Regarding claim 13, Kokubo teaches parallel processing of applications (Page 1 [0012]), but differs from the claimed invention by not explicitly reciting instructions stored in memory to generate a query to a user to launch another application to attend to the first predetermined event.

In an analogous art, Kurokawa teaches instructions stored in memory to generate a query to a user to launch another application to attend to the first predetermined event. (Fig. 6 [6d]) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the terminal device of

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Kokubo after modifying it to incorporate the query messages of Kurokawa. One of ordinary skill in the art would have been motivated to do this since it allows a user to switch between programs when specified events occur. (Fig. 6, Fig. 7 and Col. 1 line 50 through Col. 2 line 12)

Regarding claim 14, Kokubo in view of Kurokawa teaches the message comprises an audio message. (Kurokawa Fig. 5 [121])

Regarding claim 15, Kokubo in view of Kurokawa teaches the message comprises a text message. (Kurokawa Fig. 8 & Fig. 9)

Regarding claim 16, Kokubo in view of Kurokawa teaches the first predetermined event comprises receipt by the terminal device of an email or a call request. (Kurokawa Fig. 8 & Fig. 9)

Regarding claim 17, Kokubo in view of Kurokawa teaches the first predetermined event comprises receipt or transmission by the terminal device of data via a short range transmission. (Kokubo Fig. 2 [105])

Regarding claim 18, Kokubo in view of Kurokawa teaches the first predetermined event comprises execution of another application by the application. (Kokubo Fig. 9 and Kurokawa Fig. 6)

Regarding claim 19, Kokubo in view of Kurokawa teaches instructions stored in the memory to store event data for events that occur while the application is suspended, and instructions stored in the memory to provide notification of the events that occur while the application is suspended, when execution of the application is resume.



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(Kokubo Page 1 [0012] through Page 2 [0016] and Kurokawa Col. 13 lines 10-24 and Fig. 6)

Regarding claim 20, Kokubo in view of Kurokawa teaches the second predetermined event comprises a user command. (Kokubo Page 1 [0007] and Kurokawa Fig. 8 [83 & 84])

Regarding claim 21, Kokubo in view of Kurokawa obviously teaches the second predetermined event comprises expiration of a determined time period since the notification of an incoming call only occurs for a specified period before the call is directed to a voicemail service.

Regarding claim 22, Kokubo in view of Kurokawa teaches the second predetermined event comprises completion of the first predetermined event. (Kurokawa Col. 8 lines 18-21)

Regarding claim 23, Kokubo in view of Kurokawa teaches the instructions stored in memory to suspend the application comprises instructions stored in the memory to, during the suspension, maintain application related data in volatile memory that was input by a user prior to the suspension. (Kokubo Page 4 [0048] and Kurokawa Col. 4 lines 44-65)

Regarding claim 24, Kokubo in view of Kurokawa teaches instructions stored in memory to maintain the suspended application in volatile memory during the suspension. (Kokubo Page 4 [0048] and Kurokawa Col. 4 lines 44-65)

Regarding claim 25, Kokubo in view of Kurokawa obviously teaches instructions stored in memory to set an event flag indicative of the first predetermined event.

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(Kokubo Pages 1-2 [0012-0016] and Kurokawa Col. 13 lines 10-15) The setting and erasing of flags in computer systems are well known in the art and would be considered a design choice as to how the programmer decides to implement the specific notification within the computer memory.

Regarding claim 26, Kokubo in view of Kurokawa teaches instructions stored in memory to store an indicator of the first predetermined event and an identifier of the suspended application in a table. (Kurokawa Col. 13 lines 10-15)

Regarding claim 27, Kokubo in view of Kurokawa teaches instructions stored in memory to store the application in volatile memory when the application is launched, and instructions stored in memory to suspend the application comprises instructions stored in memory to maintain the application in the volatile memory until execution is resumed. (Kokubo Page 4 [0048] and Kurokawa Col. 4 lines 44-65)

Regarding claim 28, Kokubo in view of Kurokawa teaches the instructions stored in the memory to delete the stored event data when execution of the application is resumed. (Kokubo Page 1 [0013])

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 5-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew C. Sams whose telephone number is (571)272-8099. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCS  
9/18/2006



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